



The Town of Fenwick Island

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www.fenwickisland.delaware.gov

REGULAR MEETING OF THE TOWN COUNCIL

Friday, May 26, 2023

MEETING HELD VIA TELECONFERENCE

MINUTES

In Attendance

Town Council Members:

Mayor Magdeburger, Secretary Napolitano, Council Member Benn, Council Member Bishop, Council Member Bortner, Council Member Breger

Absent: Treasurer Rymer

Staff in Attendance:

Town Manager Schuchman, Police Chief Devlin, Building Official Locke, Finance Manager Gary, Town Administrator Menominee, Administrative Assistant Ellinger, Beach Patrol Captain Rykaczewski, Lieutenant Parsons

Others in Attendance:

Along with the Town Council and Staff, there were an additional 27 in-person attendees and 24 Zoom participants.

1. President's Report - Mayor Magdeburger

Update regarding Police Chief Devlin

1. The Town has decided not to renew or extend Chief Devlin's contract per the terms of the contract.

- Chief Devlin was not terminated on May 1
- The Town has simply exercised its option, in its discretion, not to renew the employment agreement with the Chief, per the terms of that agreement which required notice of the decision by May 1st.

2. Please exercise restraint and do not rush to judgment.

- The Town has exercised appropriate restraint in its public discussion of this matter and we would encourage all of you to exercise similar restraint before rushing to judgment.
 - This involves a personnel matter, out of respect for Chief Devlin, the Council will not be discussing the details in this public forum.
 - However, be advised that the narrative you may be hearing from some sources may not tell the full or accurate story.
3. The Town's search for a Police Chief is underway.
- The position has been posted, and we already have received applications and expressions of interest for this position.
 - The Town will consider applicants from both within and outside of the Fenwick Island Police Department.
4. If the Town needs to appoint an interim, acting Chief pending a final decision, it will do so.

Algae Update

1. The good news is that the algae is dissipating.
2. We also heard from DNREC yesterday.
3. DNREC's statement to us is as follows:
"DNREC is trying to coordinate a removal of the algae in the lower quadrant of Fenwick. We are in the process of contracting out the work to an outside firm, but we need to identify locations for the harvester to offload safely. DNREC will provide the truck and equipment to remove the vegetation, but we need adequate space to safely work.
I am hopeful we can get an agreement by the end of the day and coordinate removals. I expect that the removals will not begin until first week of June."
4. To assist DNREC, The Town will be calling a property owner who has a vacant property on Atlantic Street to determine whether DNREC can temporarily

use that property to offload the harvested algae. Follow updates on the Town's Facebook account.

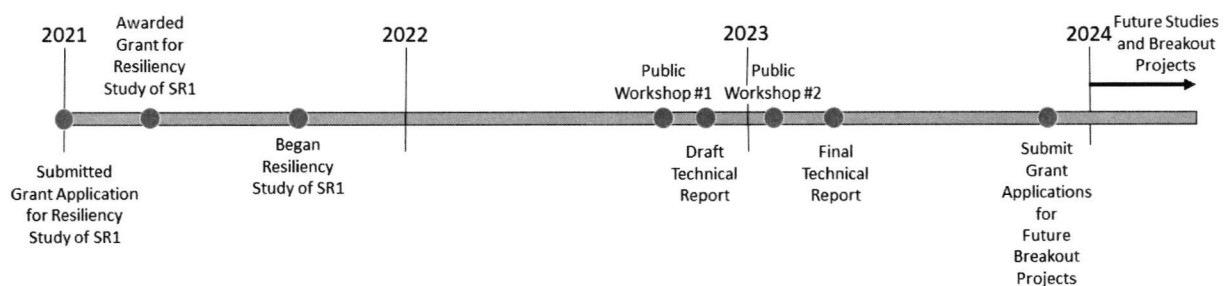
Beach Replenishment

1. Equipment delays—pipe needed repairs and an exchange of a dredge.
2. All replenishment activities are shut down for the holiday weekend.
3. Beachfill activities in Fenwick are scheduled to resume on Thursday, June 1st.
4. Will update on the Town's Facebook account.

DelDOT Resiliency Study –attended on 5/22/2023

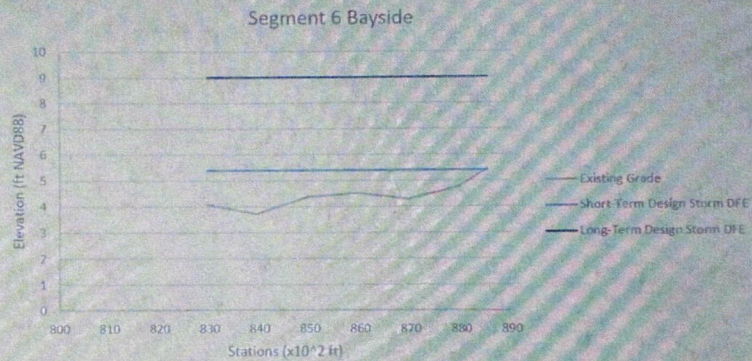
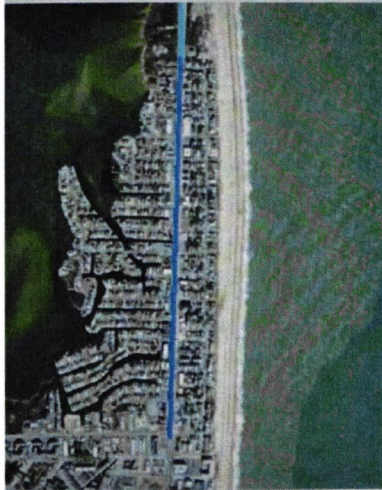
1. DelDOT is undertaking studies to protect Route 1 against sea level rise.
2. DelDOT's timeline

SR1 Resiliency Study Timeline



3. Segment 6 Bayside

Town of Fenwick – Segment 6 - Bayside

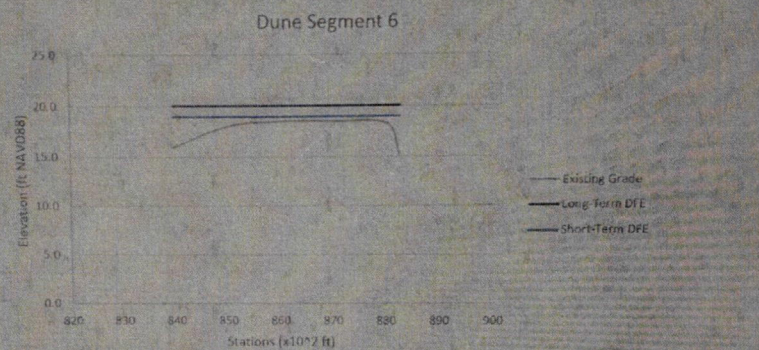


Potential Flood Mitigation Measures:

1. Raise and regrade (this may be possible for part of this segment)
2. Exposed or buried floodwall with deployables

4. Segment 6 Oceanside

Town of Fenwick – Segment 6 - Oceanside



Potential Flood Mitigation Measures:

1. Exposed or buried floodwall with deployables
2. Structural Dune

5. Mayor Magdeburger asked DelDOT 3 questions:

What happens to the properties on the waterside of the deployables?

Will they be left underwater?

DELDOT'S ANSWER: Will need to do further modeling studies.

Any attempt to work with the municipalities to discuss approaches that protect both the roadway and the Town?

DELDOT'S ANSWER: They will do further modeling.

6. They are aware of the Army Corp of Engineer study that is now underway.
7. It will be important to coordinate DelDOT's studies with the Army Corp of Engineers as well as Fenwick's resiliency studies and recommendations.

Center for Inland Bay's Updated State of the Bays study

1. Completed their study (had planned a 2021 Update) but did not get published until 2023.
2. Water quality in most of the bays still poor—got a grade of D.
3. Mild improvement in Little Assawoman particularly around Fenwick.

J.R.'s Seafood Shack

1. New business in town where Just Hooked was located.
2. Congratulations on the opening and welcome to Fenwick!

Old Dairy Queen Property

1. At last month's meeting, discussion about the safety of the property.
2. Sent a letter asking for update and offer to assist in a demolition permit.

3. The owner did file for a permit. Thank him for being responsive. The property was demolished last week.
4. Understand from comments that Sodel is working with the property owner to bring a Surf Bagel to the site. Looking forward to that and the Town is ready to help review any permits that are filed as quickly as possible.

Cpl. Story's and Cpl. Majewski's actions

1. Had 3 significant arrests since our last meeting.
2. Majewski had a vehicle that he picked up on radar going over 60 mph. Pursuit through Bethany and Ocean View. With communication with other agencies, Ocean View deployed spike strips and the subject was apprehended.
3. Last week, Cpl. Majewski had radar running at Town Hall and had a vehicle going over 80 mph. Cpl. Majewski pursued and got word that the vehicle had been clocked going over 100 mph in Ocean City but the pursuit had been called off. He advised that he had the vehicle pulled over and Ocean City came into Town. Cpl. Majewski made the arrest and charges pending for DUI as well as felony charges for having a loaded handgun in the vehicle.
4. Cpl. Story responded to an accident outside of the jurisdiction (near Harpoon Hanna's) that was involved in an accident. I believe there are alcohol related charges pending.
4. Thank them for their diligence in keeping Fenwick safe.

Sidewalks

1. Almost complete.
2. Green space additions.
3. Ribbon cutting with involvement from business community—SIDEWALK SALE EVENT.

Lifeguards

1. Fully staffed and ready to go tomorrow.

Memorial Day Remembrance Ceremony

At 5:30 outside today.

Retired Admiral Mimi Drew will be our speaker.

We will have a bag piper and the choir from St. Mathews by the Sea providing music as well as special guest singer, our own Jack Pyne.

Thank you to Jack Pyne, Wayne Carmean and Pat Schuchman for planning this event.

Please join us as we Honor, Reflect and Remember all those who have laid their lives down on the altar of freedom to serve our country in the Armed Forces.

2. Approval of Minutes from April 28, 2023 Regular Town Council Meeting

MOTION to approve April 28, 2023 Regular Town Council Meeting minutes.

Moved by: Ed Bishop

Seconded by: Richard Benn

MOTION approved unanimously.

3. For Discussion and Possible Action:

3.1 To proceed as discussed in the May 8, 2023 Executive Meeting

MOTION to proceed as discussed in the May 8th and May 26th Executive Meeting.

Moved by: Richard Benn

Seconded by: Jacque Napolitano

MOTION passed unanimously.

3.2 Shea Fumagalli Special Event- September 23, 2023

Town Manager Schuchman read a letter from Mr. Fumagalli describing his event to be held on the beach September 23, 2023.

MOTION to approve Mr. Fumagalli's Special Event on September 23, 2023.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

MOTION passed unanimously.

3.3 **FIPD Body Cameras and Dash Cams- CAF**

Mayor Magdeburger said BODY CAMERAS AND MVR'S are needed.

Body cameras –purchased in 2021.

1. We only have 4 body cameras that are shared by our officers.
2. The batteries do not last through an entire shift. For those who do not have an in-car charging port (which are only 2 cars) this requires a stop without a body camera OR a return to the Police Department to exchange the camera.
3. Our officers have vehicles that they take home. When taking a vehicle home, they do not have a body camera. Accident or response to an out of jurisdiction matter, they do not have a body camera to utilize.
4. Safety issue for our officers. Our officers have reported that “not a want, but a need” and concerned about not having them during the summer season.

MVR's (dash cameras)

1. We have 2 in vehicles currently. These have an in-car charging port. They also synchronize to the body camera.
2. We have 2 MVR's in vehicles that we just took out of service that we can, hopefully, utilize in our other vehicles.
3. We have 2 MVR's purchased in 2021 that are still in the box, having never been deployed in any vehicle.
4. MVR's allow for a charging port of the body camera, also synchronize to the body camera and record traffic stops from the vehicles for use in evidence as well as a safety item for our officers.

State is advancing a different system, Axon, and may have grants for body cameras but not MVR's. Not sure when Axon State grants would be available to Fenwick. Could be 2 years. Some jurisdictions have stated that they will continue with the Motorola product. Axon system needs wireless bandwidth that is not available in Fenwick. Cost for cloud storage that is yearly and expensive.

Below is a summary in round numbers of getting Motorola:
Each V700 body camera: \$2,000 (includes warranty and extra battery).

Annual license fee for each body cam: \$200 Body cam transfer station: \$1,500 (only need one for the station).

Server and supporting tech: \$9,300 (includes video manager license key, also supports dash cams and only need one).

Each dash cam (M500): \$7,800.

Annual license fee for each dash cam: \$200 One Wi-Fi microTik kit: \$250.

On-site training: \$5,000.

Still awaiting a cost estimate for in-car chargers for current body cams.

Total cost is around \$60,000.00 but likely to be less as we should be able to use the MVR's that we have.

Safety issue for our officers. Liability issue for the Town.

MOTION TO PURCHASE BODY CAMERAS, CHARGING STATIONS FOR IN VEHICLE USE AND MVR FOR EACH VEHICLE UP TO \$60,000.00.

MOTION to approve body cameras and MVR's for each officer with a value of up to \$60,000.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

MOTION passed 5-1 with Council Member Breger abstaining.

Mayor Magdeburger made a recommendation for purchasing equipment that would allow for training to set up scenarios such as active shooter. Ocean View offers simulated training for surrounding municipalities. Fenwick has not participated in the free simulated training that Ocean View offers. We may do so in the future but the equipment requested would be a more virtual reality type of training. This is not an immediate need item but beneficial for FIPD.

MOTION to add as a recommendation to FY2024-2025 budget cycle.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

- 3.5 Budget & Finance: Resolution to refer to C&O, the Development of a Policy for Charitable Giving
- Council Member Breger reported there was a request to make a donation to an outside entity. Budget and Finance referred this resolution to C&O for development of a policy.
- MOTION for Council to forward to C&O an inspection of a policy for Charitable Giving.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

3.6 **Dredging: Request for additional sediment testing**

Mayor Magdeburger reported on behalf of Treasurer Rymer. In connection with contract negotiations with a local developer, it was determined that additional sampling and testing of sediment in the two boating channels will be necessary to support the placement of dredge materials at that location.

The testing performed 16 months ago was sufficient for the dredging permit applications, but this additional testing will provide the necessary support that the materials are suitable for usage in that residential development. This was just recently determined and normally would have been

discussed at a Dredging Committee meeting first and then recommended to the Town Council. However, given the tight time frame to complete the testing and review the results, this request is being made directly to the Town Council.

Costs to draw samples from 10 locations and then test for a range of metals as well as specific organic materials will total \$23,000. The Dredging reserve fund has more than sufficient funds with over \$770,000 available as of April 30. If these results continue to support the placement of the material at the identified location, we have discussed a cost sharing arrangement with the developer for any future testing and sampling needed during the actual dredging process.

These tests will also provide additional support if the dredge materials will be placed at another location if we are not able to reach an agreement with the local developer.

MOTION to approve the request for additional sediment testing.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

MOTION passed unanimously.

3.7 **Second Reading of Chapter 61-14 (Hours of Construction)**

Mayor Magdeburger reported that the first reading was approved at the April 28th meeting. This ordinance limits the construction hours during the summer season from May 15th to September 15th.

MOTION to approve the second reading of Chapter 61-14 (Hours of Construction) as a final read.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

Richard Benn: Aye

Janice Bortner: Aye

Paul Breger: Aye

Jacquie Napolitano: Aye

Ed Bishop: Aye

Natalie Magdeburger: Aye

MOTION passed unanimously.

3.8 **Second Reading of Chapter 146-4 (Levying of Tax)**

Mayor Magdeburger reported that the second reading of Chapter 146-4 (Levying of Tax) involves changing the names of the tax categories from commercial to long-term and residential to short-term. The rates do not change, just the terminology.

MOTION to accept the second reading of Chapter 146-4 (Levying of Tax) as a final read.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

Richard Benn: Aye

Janice Bortner: Aye

Paul Breger: Aye

Jacque Napolitano: Aye

Ed Bishop: Aye

Natalie Magdeburger: Aye

MOTION passed unanimously.

4. Treasurer's Report - Treasurer Bunting

Council Member Breger reported on behalf of Treasurer Rymer. As expected, Fenwick's overall cash balance declined during the month of April. Total cash on hand as of April 30 was \$5.55 million as compared to \$5.69 million last month. April's revenues were higher than anticipated due to the level of building permits issued while overall expenses were in line with expectations. The overall net cash usage will continue for the next several months due to spending on the sidewalk project and the upcoming summer months where total expenses especially for lifeguards will exceed revenues. Lastly, RTT revenues were \$39,000 for April and now total \$442,000 for the year which remains very favorable when compared to the original budget of only \$150,000.

MOTION to approve the Treasurer's Report.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

MOTION approved unanimously.

7. Committee Reports

Audit, Beach, Budget & Finance, Building Review, Business Concerns, C&O, Dredging, Emergency Mgmt., Environmental, Information Technology, Infrastructure, Planning Commission, Residential Concerns, Pedestrian Safety, Town Enhancement, 70th Birthday Committee

Beach- Secretary Napolitano reported the Town Bonfire will be held July 8th from 6-10pm with a raindate on July 9th. There will be a DJ, 50/50 and t-shirts for sale. She also said the Fenwick Flicks will be June 21st showing Luca, July 19th showing Surf's Up and August 16th showing Moana.

Dredging- Mayor Magdeburger reported on behalf of Treasurer Rymer. They continue to negotiate the land access agreement with the local developer. This will not be finalized until both parties can review the results of the additional sediment testing discussed previously.

In an effort to protect the upcoming winter dredging window, they will be filing applications for dredging permits with both the US Army Corps of Engineers and DNREC in the coming weeks. The review of those applications could take six months. If they can finalize the contract and receive permits by December, they should be able to complete the dredging project by March 2024.

Environmental- Council Member Breger reported the Monarch Way station is underway. Offshore Wind facts were presented at the Planning Symposium. He also reported that Cape May passed a resolution on Offshore Wind development.

Planning Commission- Over the past month the commission has continued to write, research, listen, engage, edit, and plan. They have simultaneously been working toward a final draft of the comprehensive plan document, while planning and executing the Open House, they hosted this past weekend. It was attended by almost 40 property owners with the support of 15 members of the commission, Council, and town administration. Upon signing-in, the attendees were offered a packet which included a copy of the Draft Community Character chapter, a copy of the illustration from the survey of Question 3 and a Comment Card.

The two-hour event included a Power Point presentation which ran continuously throughout the morning and information from the 4 Issues chapters in the Plan. The stations set up around the room were contained

information regarding : Resiliency, Ocean, Beach & Dunes, The Bay, Transportation, Pedestrian and Bicycle Safety. The Power Point and handout materials we had available on Saturday are on the Town website for those interested.

Turning forward to the final draft, the Planning Commission are finalizing the draft and expect to have it available on June 5. They will hold a special meeting on June 8 at 3:00 pm in Town Hall to present the draft comprehensive plan to Town Council and the community. The meeting is open to the public and will be available via Zoom. The commenting period will begin on June 5 and will end at 4:30pm on June 12. There will be comment forms available both online and in Town Hall. The commission will review comments and discuss edits. The revised document will be available on June 16 in anticipated hope of approval by Town Council at the June 23 meeting. If approved by the Council, the draft plan will be submitted for the Delaware PLUS Review (Preliminary Land Use Services). PLUS Review meeting can take place as early as July 19. The PLUS process involves reviews by all applicable state agencies at the start of the land development process, adding value and knowledge to the process without taking over the authority of local governments to make land use decisions. While the plan is in que for PLUS review, the Commission plans to have available the Issues Chapter presentation in Town Hall at the Town Birthday Party on July 1. The Planning Commission is continuing to work diligently and intentionally to provide a comprehensive document that will assist The Town with tools to navigate the future of Fenwick Island. The willingness of collaboration within the commission, various committees and staff has been extremely helpful throughout this process. Again, they look forward to presenting the Comprehensive Plan draft on June 8th at 3:00-5:00 pm.

Residential Concerns- Council Member Bortner reported that there was a discussion held with John Eberall about lighting design on the new Route 54 bridge and how it could affect the quality of life of residents.

Pedestrian Safety- Council Member Bishop reported that the Committee is looking to retain a landscaper to add greenery to the safety buffer of the two blocks of newly installed sidewalks.

70th Birthday- Mayor Magdeburger reported the 70th Birthday party will be from 4-7 on July 1st with a steel drummer, firetruck and face painter.

8. **Old Business**

NONE.

9. New Business

NONE.

10. Upcoming Events and Meetings:

• May 29	Town Hall Closed	Memorial Day
• May 30	Planning Commission	9am
• June 1	Beach Committee	10:15am
• June 2	Emergency Mgmt	2pm
• June 5	Residential Concerns	10am
• June 5	Budget & Finance	2pm
• June 8	Special Town Council Meeting	3pm
• June 13	70th Birthday Committee	9am
• June 14	Environmental Committee	9am
• June 15	Planning Commission	9am
• June 19	Town Hall Closed	Juneteenth
• June 21	Candidate Filing Deadline	4:30pm
• June 21	Board of Elections	4:35pm
• June 21	Special Town Council Meeting	4:45pm
• June 22	Planning Commission	9am
• June 23	Town Council Meeting	3pm

11. Public Participation

Council welcomes community input but in order to work within FOIA policies and Zoom technology, public wanting to comment on issues should do the following. 1) Raise hand to be recognized by the Chair (Town Hall participants first and then virtual attendees); 2) Provide name and address; 3) Direct comments to items covered by the agenda; 4) Limit comments to 5 minutes

Bob Clark, 1100 Schulz Rd- Mr. Clark expressed his concern over the dredging and using the Freeman property to place spoils. He believes that the Freeman project is disturbing wetlands and placing spoils there will help Freeman harm the environment.

Marlene Quinn, 5 W. Houston St- Mrs. Quinn reminded everyone about the FISH dinner on June 5th at Town Hall.

Craig Pfeifer, 5 E. Atlantic St- Mr. Pfeifer thanked Chief Devlin for his years of service to the Town. He expressed concern over the Town not renewing Chief Devlin's contract. He was also concerned about the Town eliminating construction on Saturdays during the summer season because contractors need the income.

Faye Horner, 708 Bunting Avenue- Mrs. Horner expressed concern over the alleged security breach in the Police Department.

Bill Mould, 1 E. Indian Street- Mr. Mould expressed concern over a paper that has been disseminated through Town with his name on a list. He wants to know what the list is and why his name is on it.

Bill Weistling, 7 E. Indian Street- Mr. Weistling reiterated what Mr. Pfeifer and Mrs. Horner said. He also questioned who has access to the Police building and records.

Tim Collins, 22 W. Georgetown Street- Mr. Collins asked for clarification about public participation and how Council works within executive sessions. He also would be interested in learning about the "process" that occurs with employees when there are concerns about their performance.

12. Executive Session

For preliminary discussion on site acquisitions for any publicly funded capital improvements; strategy sessions, including those involving legal advice or opinion for an attorney-at-law, with respect to collective bargaining or pending or potential litigation; discussion of the content of documents, excluded from the definition of "public record"; and personnel matters in which the names, competency and abilities of individual employees are discussed. Pursuant to 29 Del.C. § 10004(B)(2), (4), (6), & (9).

13. Adjournment

MOTION to adjourn at 4:27pm

Moved by: Ed Bishop

Seconded by: Jacque Napolitano

MOTION passed unanimously.